

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NEW MEXICO CATTLE GROWERS)	
ASSOCIATION, <i>et al.</i> ,)	
Petitioners,)	
)	
v.)	Case No. 1:23-cv-150-JB-GBW
)	
UNITED STATES FOREST)	
SERVICE, <i>et al.</i> ,)	
Federal Respondents,)	
)	
and)	
)	
CENTER FOR BIOLOGICAL)	
DIVERSITY,)	
)	
))	
Respondent-Intervenor.)	
)	

**THE PARTIES' JOINT MOTION TO AMEND SCHEDULING ORDER AND
TO CONTINUE OMNIBUS MOTION HEARING**

The Parties, by and through undersigned counsel of record, respectfully request that the Court amend the September 21, 2023, Scheduling Order for merits briefing and continue the Omnibus Motion Hearing scheduled for December 18, 2023, to a date in February convenient for the Court's and the Parties' schedules. ECF Nos. 55, 56.

The Parties had previously aimed to complete briefing and argument on the merits this year, to avoid unnecessary emergency motion practice in the event that Federal Respondents undertook another action to remove feral cattle from the Gila Wilderness through aerial gunning

in February 2024. Federal Respondents represent, however, that such expedited judicial consideration is no longer needed. Based on successful aerial and ground-based operations to remove Gila Cattle over the past two years, and reconnaissance associated with those operations and otherwise, the Forest Service estimates that the number of remaining Gila Cattle is roughly in the neighborhood of 10-20 animals, with some degree of uncertainty outside that range due to the large area at issue and the evasive nature of the animals. As a result of this estimate, Federal Respondents do not intend to proceed with aerial lethal removal operations of the Gila Cattle in February 2024. To the extent that such removal operations proceed during this period, they will be ground-based removal methods consistent with prior practice.

Accordingly, the Parties no longer believe it necessary to complete briefing before the end of 2023. Nevertheless, Petitioners have now timely filed their Opening Brief, ECF No. 50; Federal Defendants have timely filed their Responding Brief, ECF No. 58; and Intervenor has timely filed its Responding Brief, ECF No. 59. According to the September 21, 2023, scheduling order, Petitioners' Reply Brief is due December 7, 2023. ECF No. 55. However, Petitioners' counsel has fallen ill and needs a modification to the scheduling order granting them additional time to finalize their Reply Brief.

Due to competing briefing deadlines, Petitioners' lead counsel's oral argument in the U.S. Court of Appeals in the Fifth Circuit, and holiday travel plans, Petitioners request an extension from December 7 to January 5, 2024, to file their Reply Brief. Neither Federal Respondents nor Intervenor objects to Petitioners' request for an extension.

The Parties jointly request an amendment to the briefing schedule as follows:

- Petitioners' Reply Brief: January 5, 2024

The Parties also jointly request that the Court continue the currently scheduled Omnibus Motion Hearing on December 18, 2023, to a date in early February. The Parties are generally available throughout that month, except that Lead Counsel for Petitioners is not available for a hearing anytime between February 16-19, 2024; Lead Counsel for Federal Respondents is not available February 28, 2024; and Lead Counsel for Respondent-Intervenor is not available February 23 or 29, 2024. A February setting would ensure the Parties and the Court have enough time to review the papers and prepare for argument.

All Parties join in this Joint Motion, and undersigned counsel will submit a proposed form of order granting the requested schedule modifications and hearing continuance to Chambers.

Dated: December 7, 2023,

Respectfully submitted,

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